

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14895 of Philip and Margie Gottfried, pursuant to 11 DCMR 3107.2, for a variance from the side yard requirements (Sub-section 405.9) to allow an addition to a single-family dwelling in an R-1-A District at premises 2899 Audubon Terrace, N.W., (Square 2247, Lot 809).

HEARING DATE: November 16, 1988 and January 11, 1989  
DECISION DATES: February 1 and March 1, 1989

FINDINGS OF FACT:

1. The application was originally scheduled for the public hearing of November 16, 1988. The Board continued the case until the public hearing of January 11, 1989 due to the applicant's failure to post the property in accordance with the provisions of 11 DCMR 3317.4 and 3317.7.

2. The property is bounded by 29th Street to the north and Audubon Terrace to the south and is known as premises 2899 Audubon Terrace, N.W. It is zoned R-1-A.

3. The property is irregularly shaped forming a peninsular projection at the western end and of the square. The site contains approximately 11,750 square feet of lot area. A building restriction line of fifteen feet forms a semi-circle around the lot except on the east side of the site.

4. The square in which the subject site is located is irregularly shaped. The development in the square consists of single family dwellings on large, irregularly shaped lots. There is no alley access to the rear of any lots in the subject square.

5. In addition to single family residences, the immediate neighborhood contains the Howard University Law Center, the University of the District of Columbia, the Van Ness/UDC Metro station, Rock Creek Park, and Soapstone Valley Park which is located immediately south of the site across Audubon Terrace.

6. The site is currently improved with a two-story detached stone and stucco single family dwelling. The existing dwelling was constructed in two parts. The original building was constructed in approximately 1928. The remainder of the existing dwelling was constructed in

1986. No variance relief was required for the 1986 portion of the structure and the existing dwelling complies with all the area requirements for the R-1-A District.

7. The applicants are proposing to construct a one-story addition adjacent to the existing kitchen on the east side of the dwelling. The proposed addition would contain a breakfast room and would result in a two foot side yard on the east side of the dwelling. The applicants are therefore seeking a variance from the eight foot side yard requirements of six feet or 75 percent.

8. The site contains 11,705 square feet of lot area. The R-1-A District permits a maximum lot occupancy of 40 percent or 4,682 square feet. The existing structure occupies 1,964 square feet. The proposed addition would increase the size of the dwelling by 81.25 square feet, resulting in a total lot occupancy of 2,045.25 square feet or approximately 17.46 percent.

9. The applicants contend that the property is affected by an extraordinary condition by virtue of the large size of the lot, its unusual shape, the topography of the site, and the siting of the original structure on the lot.

10. The existing kitchen is located in the northeast portion of the original structure and is presently adjacent to two flagstone patios to the east and north. The proposed addition is to be located in the area of the east patio and access will be provided through existing sliding glass doors. The construction of the proposed addition in the area of the north patio is impractical for the following reasons:

- a. All or a portion of the thick, stone load bearing wall on the north side of original structure would have to be removed as there is currently no entranceway in that portion of the structure.
- b. The existing kitchen appliances, plumbing, gas, and electrical wiring are located along the existing stone wall and would have to be relocated. Relocation of the facilities within the existing space would result in the blocking of existing doorways to the east or circulation areas and accessways to other areas of the residence to the west and south.
- c. The entrance to the 1986 portion of the dwelling would be blocked by any addition in the north patio area.

- d. There is an existing retaining wall approximately six feet in height at the north end of the patio which would eliminate any light or entrance to the addition from the north side.

11. The applicants are unable to expand the kitchen to other areas of the site or within the structure for the following reasons:

- a. The steep rise in topography and close proximity of building restriction lines to the existing structure prevent construction of the addition to the north and south of the dwelling.
- b. Construction of the proposed addition on the west side of the dwelling would remove the breakfast area from the existing kitchen by the entire width of the house.
- c. Reconfiguration of interior space to accommodate the breakfast area would require removal and relocation of existing circulation areas and stairwell access to the second floor.
- d. The proposed breakfast area could not be accommodated during the construction of the 1986 addition for the above reasons.

12. The Office of Planning (OP), by memorandum dated November 9, 1988, recommended that the application be denied. The OP was of the opinion that the applicant is confronted by an exceptional or extraordinary condition of the site due to its shape, the topography of the area, and the siting of the dwelling on the lot. However, the OP was of the opinion that the applicant had not adequately demonstrated that the proposed addition could not be constructed in another location on the site negating the need for variance relief. The Board does not concur with the recommendation of the OP.

13. Advisory Neighborhood Commission (ANC) 3F, by letter dated October 28, 1988 opposed the granting of the application. The ANC was of the opinion that the eight foot side yard requirement should be maintained. The ANC further expressed concern that construction of the proposed addition may damage the roots or cause the death of an existing 100 year old oak tree near the property line of 2891 Audubon Terrace.

14. The owner of 2891 Audubon Terrace, immediately east of the subject site, opposed the granting of the application. The opposition was based on the following.

- a. The required side yard should be preserved to protect the integrity of the R-1-A zone district.
- b. The addition could be made on other areas of the site or could have been incorporated in the 1986 addition without encroaching on the zoning requirements.
- c. A second story could be added to the proposed addition once the precedent for variance relief has been set.
- d. Construction could cause damage to or destruction of the large oak tree which is located near the property line.

15. In addressing the issue of damage to the oak tree, the applicant's architect testified that the proposed construction would require a foundation of a depth of approximately two and a half feet and that consultations with a landscape architect have indicated that, with the proper safeguards imposed, no damage would occur to the root system of the existing tree.

16. In addressing the issues and concerns of the ANC and the opposition, the Board finds that it is persuaded by the applicants that the site is affected by an exceptional condition which creates a practical difficulty upon the owners, therefore justifying variance relief from the strict application of the area requirements of the R-1-A District. The Board notes that each case is judged on its individual merits and does not create a precedent in considering other applications. The Board further notes that the granting of the application requires the proposed construction to comply with the plans on record, therefore, no second story addition could be made without further consideration by the Board. The Board is persuaded by the applicant's presentation that the applicants are precluded from providing the proposed breakfast area elsewhere on the site or within the confines of the existing dwelling. The Board is further persuaded that the proposed construction can be accomplished without harm to the existing oak tree.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicants are seeking an area variance, the granting of which requires

the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty upon the owners. The Board concludes that the applicants have met the requisite burden of proof. The size, shape, building restriction lines, topography and the siting of the original structure, which pre-dates the adoption of the Zoning Regulations, combine to create an exceptional condition of the property. Due to the configuration and architectural features of the original structure and the sloping topography of the site, the strict compliance with the eight foot side yard requirement would create a practical difficulty upon the owners in that the existing kitchen area could not be enlarged without negative impacts on the existing architectural, circulation and plumbing patterns of the original structure.

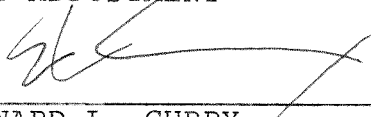
The Board further concludes that the weight of the evidence of record is that the proposed addition can not be accommodated elsewhere on the site and that the proposed addition will not substantially impair the intent, purpose and integrity of the zone plan and can be granted without substantial detriment to the public good. The proposed addition will result in a total lot occupancy of approximately 17.46 percent, less than the forty percent permitted by the Zoning Regulations. The proposed addition will be one-story in height and is designed to be compatible with the character of the existing area.

The Board concludes that it has afforded the ANC the "great weight" to which it is entitled. Accordingly it is ORDERED that the application is GRANTED.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Paula L. Jewell, Maybelle Taylor Bennett and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: JUL 28 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT

TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED,  
SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD  
SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL  
PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE  
BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS  
AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH  
PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE  
OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND  
REGULATORY AFFAIRS.

14895order/BHS6

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14895

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mailed to all parties, dated

JUL 28 1989

and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Jeff Stoiber  
Stoiber & Associates  
1751 N Street, N.W.  
DC 20036

Philip & Margie Gottfried  
2899 Audubon Terrace, N.W.  
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Jules Bassin  
2891 Audubon Terrace, N.W.  
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Stanley Steinman, Chairperson  
Advisory Neighborhood Commission 3-F  
4401 Connecticut Avenue, N.W., Suite 205  
Washington, D. C. 20016

A handwritten signature in dark ink, appearing to read "Ed Curry", written over a horizontal line.

EDWARD L. CURRY  
Executive Director

DATE: JUL 28 1989

attestation/BPS6